

E-filing

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Attorneys for Defendant
TARGET STORES, a division
of Target Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADR

JONI BAKER, a.k.a F. JOAN BAKER,

Plaintiff,

vs.

TARGET CORPORATION, and
DOES 1-10, inclusive.

Defendants.

Case No.:

[Alameda County Superior Court Case No.:
HG 07319664]

**PETITION FOR REMOVAL OF
ACTION PURSUANT TO 28 U.S.C.
§1441(b) [DIVERSITY]**

Complaint Filed: April 9, 2007

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant TARGET STORES, a division of Target Corporation (hereinafter "TARGET"), hereby removes to this Court the state court action described below.

JURISDICTION

1. Defendant TARGET is informed and believes that plaintiff Joni Baker, a.k.a. F. Joan Baker, is a citizen of the State of California, and was at the time of the filing of the Complaint and this Petition for Removal.

2. Defendant TARGET is a Minnesota Corporation, whose principal place of business is Roseville, Minnesota.

3. TARGET is a publicly held corporation whose chairman and chief executive officer is Bob Ulrich.

GO 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1 4. Defendant TARGET is not a citizen of the state in which this action is pending.

2 5. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interest,
3 attorneys' fees and costs.

4 6. This court has jurisdiction by virtue of 28 U.S.C. §1332 and 28 U.S.C. §1441(b).

5 **GROUND FOR REMOVAL**

6 7. On April 9, 2007, a civil action was commenced in the Alameda County Superior
7 Court, Unlimited Jurisdiction, of the State of California, entitled *Joni Baker, a.k.a. F. Joan Baker*
8 *v. Target Corporation, et al.*, Action No. HG 07319664 . A true and correct copy of the Summons
9 and Complaint is attached hereto and marked as **Exhibit A**.

10 8. Defendant TARGET was served with a copy of said Complaint on June 12, 2007.
11 A true and correct copy of the Proof of Service is attached hereto as **Exhibit B**.

12 9. Defendant TARGET has answered plaintiff's unverified complaint. A true and
13 correct copy of the answer is attached hereto and marked as **Exhibit C**.

14 10. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332, and
15 the complaint is one which may be removed to this Court by defendant TARGET pursuant to the
16 provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states, and
17 the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

18 11. Defendant TARGET is the only named defendant in this action, and it is informed
19 and believes that no other defendants have been served in this action.

20 Based on the foregoing, defendant TARGET respectfully requests that this Court accept
21 removal of this action.

22 DATED: September 27, 2007

23 BOORNAZIAN, JENSEN & GARTHE
24 A Professional Corporation

25 By: 

26 GAIL C. TRABISH, ESQ.
27 Attorneys for Defendant
28 TARGET STORES, a division
of Target Corporation

25014\415269

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
TARGET CORPORATION, DOES 1 TO 10

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):
IONI BAKER, also known as F. Joan Baker

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED
FILED
ALAMEDA COUNTY**

APR 09 2007

CLERK OF THE SUPERIOR COURT
By *R. Mishra*

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California

CASE NUMBER
(Número del Caso): **CG07319664**

24405 Amador Street

Hayward, CA 94544

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Alan S. Yee

Siegel & Yee

499 14th Street, Suite 220

Oakland, CA 94612

(510) 839-1200

DATE: **PAT S. SWEETEN**

Clerk, by

R. Mishra

Deputy

(Fecha) **4/9/07**

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Target Corporation**

under:

- ☒ CCP 416.10 (corporation)
- ☐ CCP 416.20 (defunct corporation)
- ☐ CCP 416.40 (association or partnership)
- ☐ other (specify):

- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date): **6.12.07**

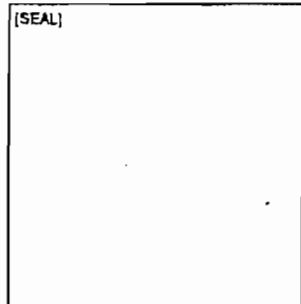


EXHIBIT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Number, and address): Alan S. Yee Siegel & Yee 499 14th Street, Suite 220 Oakland, CA 94612 TELEPHONE NO.: (510) 839-1200 FAX NO. (Optional): (510) 444-6698 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff JONI BAKER SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: CITY AND ZIP CODE: Hayward, CA 94544 BRANCH NAME: PLAINTIFF: JONI BAKER, also known as F. Joan Baker DEFENDANT: TARGET CORPORATION <input checked="" type="checkbox"/> DOES 1 TO 10 COMPLAINT-Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): Slip and Fall <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2007 CLERK OF THE SUPERIOR COURT By <i>Ruon</i>
CASE NUMBER: HG07319664	

1. Plaintiff (name or names): JONI BAKER

alleges causes of action against defendant (name or names): TARGET CORPORATION

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

(1) ☐ a corporation qualified to do business in California

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) ☐ other (specify):

(5) ☐ other (specify):

b. ☐ except plaintiff (name):

(1) ☐ a corporation qualified to do business in California

(2) ☐ an unincorporated entity (describe):

(3) ☐ a public entity (describe):

(4) ☐ a minor ☐ an adult

(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) ☐ other (specify):

(5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

Page 1 of 3

SHORT TITLE:

Baker v. Target Corporation

E NUMBER:

4. ☐ Plaintiff (name):
Is doing business under the fictitious name (specify):
- and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ except defendant (name):
Target Corporation
- (1) ☐ a business organization, form unknown
(2) ☒ a corporation
(3) ☐ an unincorporated entity (describe):
(4) ☐ a public entity (describe):
(5) ☐ other (specify):
- c. ☐ except defendant (name):
- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):
(4) ☐ a public entity (describe):
(5) ☐ other (specify):
- b. ☐ except defendant (name):
- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):
(4) ☐ a public entity (describe):
(5) ☐ other (specify):
- d. ☐ except defendant (name):
- (1) ☐ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):
(4) ☐ a public entity (describe):
(5) ☐ other (specify):
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (specify Doe numbers): 1 to 10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. ☒ Doe defendants (specify Doe numbers): 1 to 10 are persons whose capacities are unknown to plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. ☒ Injury to person or damage to personal property occurred in its jurisdictional area.
d. ☐ other (specify):
9. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
b. ☐ is excused from complying because (specify):

SHORT TITLE:

Baker v. Target Corporation

E NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached) :

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☒ Premises Liability
- f. ☐ Other (specify) :

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☐ other damage (specify) :

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers) :

Date: March 28, 2007

Alan S. Yee

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

Baker v. Target Corporation

CASE NUMBER:

First

(number)

CAUSE OF ACTION- Premises Liability

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): JONI BAKER

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): April 20, 2005

plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

Plaintiff was shopping at defendant Target Corporation's store in San Leandro, California, when Plaintiff suffered a fall caused by a dangerous condition on the floor near the toilet facilities.

Prem.L-2. ☒ **Count One-Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
Target Corporation

☒ Does 1 to 10

Prem.L-3. ☐ **Count Two-Willful Failure to Warn** (Civil Code section 846) The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):

☐ Does _____ to _____Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three-Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

☐ Does _____ to _____

a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

☒ Does 1 to 10

b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are ☐ described in attachment Prem.L-5.b ☐ as follows (names):

EXHIBIT B

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**
06/13/2007
Log Number 512310378

TO: Carter Leuty
Target Corporation
1000 Nicollet Mall
Minneapolis, MN, 55403-

RE: Process Served in California

FOR: Target Corporation (Domestic State: MN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Joni Baker, etc., Pltf. vs. Target Corporation, et al., Dfts.
DOCUMENT(S) SERVED: Summons, Complaint, Notice of Case Management Conference and Order, Notice, Attachment, Stipulation Form
COURT/AGENCY: Superior Court of California, CA
Case # HG07319664
NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - On April 20, 2005
ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA
DATE AND HOUR OF SERVICE: By Process Server on 06/12/2007 at 14:35
APPEARANCE OR ANSWER DUE: Within 30 days after service - file written response // 08/28/2007 at 8:30 a.m. - Case Management Conference
ATTORNEY(S) / SENDER(S): Alan S. Yee
Siegel & Yee
499 14th Street, Suite 220
Oakland, CA, 94612
510-839-1200
ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex Standard Overnight, 790760926912
SIGNED: C T Corporation System
PER: Dianne Christman
ADDRESS: 818 West Seventh Street
Los Angeles, CA, 90017
TELEPHONE: 213-337-4615

Rec'd on 6.15.07 at 12³⁰pm via Fed Ex
forwarded on 6.15.07 to
Gedgwick by Terri Morgan.

Page 1 of 1 / BF

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

EXHIBIT B

EXHIBIT C

GAIL C. TRABISH, ESQ. (#103482)
BOORNAZIAN, JENSEN & GARTHE
A Professional Corporation
555 12th Street, Suite 1800
P. O. Box 12925
Oakland, CA 94604-2925
Telephone: (510) 834-4350
Facsimile: (510) 839-1897

Attorneys for Defendant
TARGET STORES, a division
of Target Corporation

ENDORSED
FILED
ALAMEDA COUNTY

JUL 12 2007

CLERK OF THE SUPERIOR COURT
By Tasha Perry, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

BY FAX

JONI BAKER, a.k.a F. JOAN BAKER,

Plaintiff,

vs.

TARGET CORPORATION, and
DOES 1-10, inclusive.

Defendants.

Case No.: HG 07319664

**ANSWER TO UNVERIFIED
COMPLAINT**

Complaint Filed: April 9, 2007

COMES NOW Defendant TARGET STORES, a division of Target Corporation, and for its answer to the unverified complaint of plaintiff JONI BAKER, on file herein, admits, denies and alleges as follows:

Under the provisions of §431.30(d) of the California Code of Civil Procedure, this answering defendant denies each and every, all and singular, generally and specifically, the allegations contained in said complaint and further denies that plaintiff has been damaged in any sum or sums, or at all, by reason of any act or omission on the part of this answering defendant.

AS A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION THEREOF, this answering defendant is informed and believes and thereon alleges that neither the complaint nor any of its alleged causes of action states facts sufficient to constitute a cause of

1 action against this answering defendant.

2 **AS A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
3 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
4 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff
5 failed to mitigate her alleged damages as required by law.

6 **AS A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
7 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
8 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff
9 was comparatively at fault in the manner and style as set forth in the case of *Li v. Yellow Cab Co.*
10 (1975) 13 Cal.3d 804, and defendant prays that any and all damages sustained by said plaintiff be
11 reduced by the percentage of her negligence.

12 **AS A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
13 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
14 **THEREOF**, this answering defendant is informed and believes and thereon alleges that the
15 damages complained of, if any there were, were proximately contributed to or caused by the
16 carelessness, negligence, fault or defects created by the remaining parties in this action, or by other
17 persons, corporations or business entities unknown to this answering defendant at this time, and
18 were not caused in any way by this answering defendant, or by persons for whom this answering
19 defendant is legally liable.

20 Should this answering defendant be found liable to plaintiff, which liability is expressly
21 denied, said defendant is entitled to have this award against it abated, reduced or eliminated to the
22 extent that the negligence, carelessness, fault or defects created by the remaining parties in this
23 action, or by said other persons, corporations or business entities, contributed to plaintiff's
24 damages, if any.

25 **WHEREFORE**, this answering defendant prays as follows:

- 26 1. That plaintiff take nothing by her complaint and that this answering defendant be
27 dismissed hence;
28 2. For reasonable attorneys' fees;

1 3. For costs of suit incurred herein; and

2 4. For such other and further relief as the Court deems fit and proper.

3
4 DATED: July 12, 2007

5 BOORNAZIAN, JENSEN & GARTHE
6 A Professional Corporation

7 By: 

8 GAIL C. TRABISH, ESQ.
9 Attorneys for Defendant
10 TARGET STORES, a division
11 of Target Corporation

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GCT01\409350

PROOF OF SERVICE BY MAIL
(C.C.P. SECTIONS 1013(a) -2015.5)

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

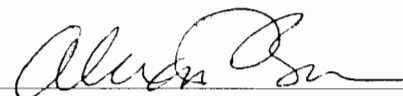
I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **ANSWER TO UNVERIFIED COMPLAINT**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Alan S. Yee, Esq.
Siegel & Yee
499 14th Street, Ste. 220
Oakland, CA 94612
(510) 839-1200 Phone
(510) 444-6698 Fax

Attorney for Plaintiff

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on July 12, 2007.


Alexine L. Braun

GCT01\409350

CERTIFICATE OF SERVICE
(28 U.S.C. §1746)

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441(b) [DIVERSITY]; CIVIL CASE COVER SHEET**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Alan S. Yee, Esq.
Siegel & Yee
499 14th Street, Ste. 220
Oakland, CA 94612
(510) 839-1200 Phone
(510) 444-6698 Fax

Attorneys for Plaintiff

I declare under penalty of perjury that the foregoing is true and correct. Executed at Oakland, California on September 27, 2007.


ALEXINE BRAUN

25014\415269